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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,667	12/26/2001	Michael R. Frey	71-780-1	6539

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EXAMINER

PARADISO, JOHN ROGER

ART UNIT	PAPER NUMBER
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3721

7

DATE MAILED: 12/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/025,667	<b>Applicant(s)</b> FREY, MICHAEL R.	
	<b>Examiner</b> John R. Paradiso	<b>Art Unit</b> 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 September 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Response to Amendments*

1. In view of the amendments filed 9/25/2003, the objections to the Specification are hereby withdrawn.
2. Applicant's arguments filed 9/25/2003 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over SHERER ET AL (US 5862647) in view of KALLNER ET AL (US 6393808).

SHERER ET AL discloses a wrapping machine in which a stretch head (10) is mounted on a carriage that moves up and down on a downright (32) which is itself mounted to a frame (col. 4:52-5:2). A supply roll (16) of web material is mounted vertically, dispensing web material to 1<sup>st</sup> and 2<sup>nd</sup> tension rollers (44, 46) and 1<sup>st</sup> and 2<sup>nd</sup> idler rollers (78, 74) (Figure 3)

which are also mounted vertically, the web material being threaded between the rollers and their mountings. A base plate (12) supports the rollers and is itself inclined with respect to the vertical (col. 7:66-8:15). A drive motor (38) is operably connected to the tension rollers (col. 5:15-42).

SHERER ET AL does not disclose use of a strain gauge roller.

KALLNER ET AL discloses a wrapping machine in which film (26) to be applied to a package (12) is threaded from a supply roll (24) through various rollers (46, 48, 50, 40, 44) (col. 4:32-41), which are mounted on a carriage (18). The carriage is mounted on and moves vertically upon a downright (16) (col. 4:44-58, Fig. 1, Fig. 2). A strain gauge roller (42) is mounted on the carriage before the final idler roller (44) to ensure the film is applied to the load with a predetermined tension (col. 4:25-31).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a strain gauge roller to detect strain on the material, as taught by KALLNER ET AL, in the invention of SHERER ET AL, in order to reduce failures requiring operator attention.

Regarding claim 2, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the angle a 90 degree angle in order to provide the most innate strain in the web and thus get the best reading from the sensor or in fact, any angle that provided the best reading for the sensor, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Note that with respect to claim 1 line 24, it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the

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ability to so perform.. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 63 USPQ 138.

5. Claims 5-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over SHERER ET AL in view of KALLNER ET AL, as applied to claims 1-4 above, and further in view of RIMONDI ET AL (US 5603198).

The combination of SHERER ET AL, and KALLNER ET AL, as described above, does not disclose any of the rollers having a rubber sleeve.

RIMONDI ET AL discloses a wrapping machine in which a web of material is passed around and gripped by rollers (12, 13) which are covered in sleeves of rubber, providing a high-enough coefficient of friction that they maintain a good grip on the film at all times.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the rubber-sleeved rollers of RIMONDI ET AL for the final idler roller in the combination of SHERER ET AL and KALLNER ET AL in order to provide a more secure grip on the web as the stretch head moves relative to the package.

Regarding claim 7, it is inherent in any sleeve that it be made as one of the claimed options: a one-piece tube, a flat sheet formed into a tube, or a strip formed into a tube.

Regarding claim 8, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the angle a 90 degree angle in order to provide the most innate strain in the web and thus get the best reading from the sensor or in fact, any angle that provided the best reading for the sensor, since it has been held that discovering an optimum

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value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

### *Reference Citations*

6. The following prior art made of record and not relied upon is considered pertinent to

Applicant's disclosure:

- WRIGHT ET AL discloses a web tensioning roller situated between tension rollers.

### *Conclusion*

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Paradiso. The examiner can normally be reached Monday-Friday, 9:30 p.m. – 6:00 p.m. (ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada, can be reached at the number listed below.

Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Technology Center Receptionist.



Examiner John Paradiso: (703) 308-2825

Additional Phone Numbers:

Supervisor Rinaldi Rada: (703) 308-2187  
TC 3700 Receptionist: (703) 308-1148  
Customer Service: (703) 306-5648  
Fax (directly to Examiner) (703) 746-3253  
Fax (Official): (703) 872-9306

December 8, 2003



Rinaldi I. Rada  
Supervisory Patent Examiner  
Group 3700